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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/865,175	05/24/2001	Thomas Tobin	434-226	3002

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KING & SCHICKLI, PLLC  
247 NORTH BROADWAY  
LEXINGTON, KY 40507

EXAMINER

COOK, REBECCA

ART UNIT PAPER NUMBER

1614

DATE MAILED: 08/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/865,175	TOBIN, THOMAS	
	<b>Examiner</b>	<b>Art Unit</b>	
	Rebecca Cook	1614	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 July 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 65-91 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 80-91 is/are rejected.
- 7) ☒ Claim(s) 65-79 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |



### **DETAILED ACTION**

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 22, 2004 has been entered.

Claims 1-64 have been canceled. Claims 65-91 are pending and examined.

### **Specification**

The specification is again objected to for the reasons given in the Paper of May 23, 2003. Applicant's intent to amend it is noted.

### ***Claim Objections***

Claims 65 and 80 are objected to as not containing proper punctuation. They do not end with a period.

### ***Claim Rejections - 35 USC § 112 Moot***

In view of the new claims the earlier rejection under 35 USC 112, second paragraph is moot.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 80-91 are rejected under 35 U.S.C. 103(a) as being unpatentable over 5,635,204 (Gevirtz et al), alone, or in view of Veterinary Pharmacology and Therapeutics (Adams).

Gevirtz (abstract, column 1, lines 35047, column 3, lines 13-16) discloses a method of inducing sedation and analgesia using a guanidine derivative, including guanabenz and clonidine. It further discloses a method of reversing the analgesia and sedation using the instant  $\alpha$ -adrenergic antagonist. Claim 49 differs over Gevirtz in reciting a method for providing chemical restraint. The claims further differ over Gevirtz in reciting specific routes of administration, subjects and dosages. However, once a method of use is known it is within the scope of the artisan to determine optimum routes of administration, subjects and dosages. Additionally, Adams (page 160, column 2, "Tranquilizer-Sedative" through page 162, column 1, lines 1-2) discloses that sedatives are used in animals to produce "chemical restraint."

Applicant again argues that Gevirtz requires a combination of drugs to induce general anesthesia and places an animal in recumbancy. This is not persuasive. The instant "comprising" language does not exclude a combination of drugs or recumbancy. Additionally, it would be obvious that animals that are chemically restrained would remain standing.

Applicant's arguments regarding Adams are not persuasive, since Adams is cited to show that sedatives are used in animals to produce "chemical restraint."

### **Prior Art of Record**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. 5,635,204 (Gevirtz et al) discloses a method of inducing anesthesia using a combination of an .alpha.-adrenergic agonist and fentanyl, but does not render the method of using only the .alpha.-adrenergic agonist, claims 65-79, obvious in the absence of additional information.

### ***Allowable Subject Matter***

Claim 65 would be allowable if rewritten to overcome the objection set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claims 66-79 are objected to as being dependent upon a objected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Cook whose telephone number is (571) 272-0571. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Low, can be reached on (571)272-0951.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Renee Jones (571) 272-0547 in Customer Service.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

The official fax number is 703-872-9806

Rebecca Cook

A handwritten signature in black ink, appearing to read 'Rebecca Cook', with a stylized flourish at the end.

Primary Examiner  
Art Unit 1614

August 22, 2005